



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35718]

Grainbelt Corporation—Acquisition and Operation Exemption—BNSF Railway Company

Grainbelt Corporation (GNBC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from BNSF Railway Company (BNSF), the real property underlying a 178.7-mile line of railroad between milepost 588.3 near Enid, and milepost 767.0 near Frederick, in Garfield, Tillman, Major, Blaine, Dewey, Custer, Washita, and Kiowa, Counties, Okla. (the Line).

GNBC currently owns and operates the facilities that comprise the Line,¹ and leases the underlying property from BNSF. GNBC and BNSF are entering into an agreement in which GNBC will acquire the underlying property of the Line and terminate the lease.

GNBC has certified that its projected annual revenues as a result of this transaction will not result in GNBC's becoming a Class II or Class I rail carrier but that its projected annual revenue will exceed \$5 million. Accordingly, GNBC is required, at least 60 days before this exemption is to become effective, to send notice of the

¹ See Grainbelt Corp.—Exemption Acquis. and Operation of Certain Lines of Burlington N. R.R., FD 31094 (ICC served Sept. 18, 1987). Originally, GNBC acquired 186.4 miles of rail line from BNSF in the September 1987 proceeding, but GNBC abandoned a 7.7-mile portion of the Line between milepost 767.0 near Frederick and milepost 774.7 at Davison, in Tillman County, Okla. See Grainbelt Corp.—Abandonment Exemption—in Tillman Cnty., Okla., AB 424 (Sub-No. 1X) (ICC served Oct. 4, 1994).

transaction to the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so. 49 CFR 1150.42(e).

GNBC, concurrently with its notice of exemption, filed a petition for waiver of the 60-day advance labor notice requirement under § 1150.42(e), asserting that no employees will be affected by the acquisition of the underlying property of the Line because there will be no changes for any employees working on the Line. GNBC already owns the rail facilities and has been the sole operator of the Line since 1987, and will continue to be the sole operator once the transaction has been completed. GNBC states no employees have worked on the Line since 1987 and no BNSF employees will be affected or have to make any career choices as a result of the sale. GNBC also states that posting notices on the Line would not provide notice to any BNSF employees because no BNSF employees work on the Line. GNBC further states that the transaction will not result in any operational or maintenance changes on the Line and no GNBC employees will be affected.² GNBC's waiver request will be addressed in a separate decision.

GNBC states that it intends to consummate the transaction on March 31, 2013, subject to the waiver of the labor notice requirement. The Board will establish in the decision on the waiver request the earliest this transaction may be consummated.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any

² According to GNBC, GNBC employees are not unionized.

time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than March 25, 2013.

An original and 10 copies of all pleadings, referring to Docket No. FD 35718, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Eric M. Hocky, Thorp Red & Armstrong, LLP, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

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Decided: March 12, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig

Clearance Clerk

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